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10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

12 WAYMO LLC,

13 Plaintiff,

14 vs.

15 UBER TECHNOLOGIES, INC.;
16 OTTOMOTTO LLC; OTTO TRUCKING
LLC,

17 Defendants.

CASE NO. 3:17-cv-00939-WHA

**PLAINTIFF WAYMO LLC'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL PORTIONS OF EXHIBIT
A TO WAYMO'S DISCOVERY LETTER
BRIEF RE: INSPECTION OF LiDAR
DEVICES**

Pursuant to Civil L.R. 7-11 and 79-5, Plaintiff Waymo LLC (“Waymo”) respectfully requests to file under seal confidential information in portions of Exhibit A to its April 10, 2017 Discovery Letter Brief concerning the inspection of Defendants’ LiDAR devices (“Exhibit A”). Specifically, Waymo requests an order granting leave to file under seal the portions of the document as listed below:

| Document | Portions to Be Filed Under Seal |
|---|---------------------------------|
| Exhibit A to Waymo’s Discovery Letter Brief | Highlighted Portion |

I. LEGAL STANDARD

Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.* In the context of non-dispositive motions, materials may be sealed so long as the party seeking sealing makes a “particularized showing” under the “good cause” standard of Federal Rule of Civil Procedure 26(c). *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto Insurance Co.*, 331 F.3d 1122, 1135, 1138 (9th Cir. 2003)). Both the California Uniform Trade Secrets Act and the Federal Trade Secrets Act provide for maintaining the confidentiality of alleged trade secrets. Cal. Civ. Code § 3426.5 (“In an action under this title, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include . . . sealing the records of the action[.]”); 18 U.S.C. § 1835(a) (“[T]he court shall enter such orders and take such other action as may be necessary and appropriate to preserve the confidentiality of trade secrets[.]”).

II. THE COURT SHOULD SEAL WAYMO’S CONFIDENTIAL INFORMATION

The Court should seal the highlighted portions of Exhibit A. Waymo seeks to file this information under seal because it discloses Waymo’s trade secrets information. *See* Declaration of Jordan Jaffe (“Jaffe Decl.”), ¶¶ 3-4. Courts have determined that trade secret information merits sealing. *Music Grp. Macao Commercial Offshore Ltd. v. Foote*, No. 14-cv-03078-JSC, 2015 WL 3993147, at *1 (N.D. Cal. June 30, 2015) (quoting *Kamakana*, 447 F.3d at 1179); *see also Brocade*

1 *Commc'ns Sys., Inc. v. A10 Networks, Inc.*, No. C 10-3428 PSG, 2013 WL 211115, at *1, *3 (N.D.
 2 Cal. Jan. 17, 2013) (granting request to seal document that “consists entirely of descriptions of
 3 Brocade’s trade secrets.”). Waymo seeks to seal confidential trade secret information that fits
 4 squarely within this category of protectable information. Jaffe Decl. ¶¶ 3-4. Waymo maintains this
 5 information as a trade secret (*see* Dkt. 24-3.) and ensures the information remains secret with strict
 6 secrecy and security protocols (*see* Dkt. 24-15; Dkt. 24-16). Jaffe Decl. ¶ 4. Waymo has narrowly
 7 tailored its requests to only information meriting sealing. *Id.* ¶ 5. In fact, both *Music Grp.* and
 8 *Brocade* found the confidential information met the heightened “compelling reasons” standard for
 9 sealing. *Music Grp.*, 2015 WL 3993147, at *1; *Brocade*, 2013 WL 211115, at *1, *3. The
 10 information that Waymo seeks to seal, therefore, also meets this heightened standard. The disclosure
 11 of Waymo’s trade secret information would harm Waymo (Jaffe ¶¶ 4-5), and, thus, the Court should
 12 grant Waymo’s administrative motion to seal.

13 **III. CONCLUSION**

14 In compliance with Civil Local Rule 79-5(d), redacted and unredacted versions of the
 15 above listed documents accompany this Administrative Motion. For the foregoing reasons,
 16 Waymo respectfully requests that the Court grant Waymo’s administrative motion to file under
 17 seal.

19 DATED: April 10, 2017

QUINN EMANUEL URQUHART & SULLIVAN,
 LLP

21 By /s/ Jordan Jaffe

Jordan Jaffe

Attorneys for WAYMO LLC